Henry Brubaker

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CONGRESS.

FIRST SESSION.

IN SENATE.

THURSDAY, April 17, 1834.

Several messages were received from the President of the United States, by Mr. Donelson, his Private Secretary; among them the following

PROTEST:

To the Senate of the United States:

It appears by the published journal of the Senate, that on the 20th of December last, a resolution was offered by a member of the Senate, which, after a protracted debate, was, on the twenty-eighth day of March last, modified by the mover, and passed by the votes of twenty-six Senators out of forty-six,* who were present and voted, in the following words, viz:

"Resolved, That the President, in the late Executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and the laws, but in derogation of both."

Having had the honor, through the voluntary suffrages of the American People, to fill the office of President of the United States during the period which may be presumed to have been referred to in this resolution, it is sufficiently evident that the censure it inflicts was intended for myself. Without notice, unheard and untried, I thus find myself charged on the records of the Senate, and in a form hitherto unknown in our history, with the high crime of violating the laws and constitution of my country.

It can seldom be necessary for any Department of the Government, when assailed in conversation, or debate, or by the strictures of the press or of popular assemblies, to step out of its ordinary path for the purpose of vindicating its conduct, or of pointing out any irregularity or injustice in the manner of the attack. But when the chief Executive Magistrate is, by one of the most important branches of the Government, in its official capacity, in a public manner, and by its recorded sentence, but without precedent, competent authority, or just cause, declared guilty of a breach of the laws and constitution, it is due to his station, to public opinion, and to a proper self-respect, that the officer thus denounced should promptly expose the wrong which has been done.

In the present case, moreover, there is even a stronger necessity for such a vindication. By an express provision of the constitution, before the President of the United States can enter on the execution of his office, he is required to take an oath or affirmation in the following words:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend, the constitution of the United States."

The duty of defending, so far as in him lies, the integrity of the constitution, would indeed have resulted from the very nature of his office: but by thus expressing it in the official oath or affirmation, which in this respect differs from that of every functionary, the founders of our Republic have attested their sense of its importance, and have given to it a peculiar solemnity and force. Bound to the performance of this duty by the oath I have taken, by the strongest obligations of gratitude to the American People, and by the ties which unite my every earthly interest with the welfare and glory of my country; and perfectly convinced that the discussion and passage of the above-mentioned resolution were not only unauthorised by the constitution, but in many respects repugnant to its provisions and subversive of the rights secured by it to other coordinate departments, I deem it an imperative duty to maintain the supremacy on that sacred instrument, and the immunities of the department intrusted to my care, by all means consistent with my own lawful powers, with the rights of others, and with the genius of our civil institutions. To this end, I have caused this, my *solemn protest* against the aforesaid proceedings, to be placed on the files of the Executive Department, and to be transmitted to the Senate.

It is alike due to the subject, the Senate, and the People, that the views which I have taken of the proceedings referred to, & which compel me to regard them in the light that has been mentioned, should be exhibited at length, and with the freedom and firmness which are required by an occasion so unprecedented and peculiar.

Under the constitution of the United States, the powers and functions of the various departments of the Federal Government, and their responsibilities for violation or neglect of duty, are clearly defined or result by necessary inference. The Legislative power, subject to the qualified negative of the President, is vested exclusively in the President, except that in the conclusion of treaties and in certain appointments to office, he is to act with the advice and consent of the Senate. The Judicial power is vested exclusively in the Supreme and other Courts of the United States, except in cases of impeachment, for which purpose the accusatory power is vested in the House of Representatives: and that of hearing and determining, in the Senate. But although for the special purposes which have been mentioned, there is an occasional intermixture of the powers of the different departments, yet, with these exceptions, each of the three great departments is independent of the others in its sphere of action; and when it deviates from that sphere, is not responsible to the others, further than it is expressly made so in the constitution. In every other respect, each of them is the co-equal of the other two, and all are the servants of the American People, without power or right to control or censure each other in the service of their common superior, save only in the manner and to the degree which that superior has prescribed.

The responsibilities of the President are numerous and weighty. He is liable to impeachment for high crimes and misdemeanors, and, on due conviction, to removal from office, and perpetual disqualification; and notwithstanding such conviction, he may also be indicted and punished according to law. He is also liable to the private action of any party who may have been injured by his illegal mandates or instructions, in the same manner and to the same extent as the humblest functionary. In addition to the responsibilities which may thus be enforced by impeachment, criminal prosecutions, or suit at law, he is also accountable at the bar of public opinion, for every act of his administration. Subject only to the restraints of Justice, the free People of the United States have the undoubted right, as individuals or collectively, orally or in writing, at such times, and in such language and form as they may think proper, to discuss his official conduct, and to express and promulgate their opinions concerning it. Indirectly, also, his conduct may come under review in either branch of the Legislature, or in the Senate when acting in its Executive capacity, and so far as the executive or legislative proceedings of these bodies may require it, it may be examined by them. The are believed to be the proper and only modes, in which the President of the United States is to be held accountable for his official conduct.

Vested by these principles, the resolution of the Senate is wholly unauthorized by the constitution, and in derogation of its entire spirit. It assumes that a single branch of the Legislative Department may, for the purposes of a public censure, and without any view to legislation or impeachment, take up, consider, and decide upon, the official acts of the Executive. But in no part of the constitution is the President subjected to any such responsibility; and in no part of that instrument is any such power conferred on either branch of the Legislature.

The justice of these conclusions will be illustrated and confirmed by a brief analysis of the powers of the Senate, and a comparison of their recent proceedings with those powers.

The high functions assigned by the constitution to the Senate, are in their nature either Legislative, Executive, or Judicial. It is only in the exercise of its Judicial powers, when sitting as a Court for the Trial of Impeachments, that the Senate is expressly authorized and necessarily required to consider and decide upon the conduct of the President, or any other public officer. Indirectly, however, as has already been suggested, it may frequently be called on to perform that office. Cases may occur in the course of its Legislative or Executive proceedings, in which it may be indispensable to the proper exercise of its powers, that it should inquire into, and decide upon, the conduct of the President or other public officers; and in every such case, its constitutional right to do so is cheerfully conceded. But to authorize the Senate to enter on such a task in its Legislative or Executive capacity, the inquiry must actually grow out of and to some Legislative or Executive action; and the decision, when expressed, must take the form of some appropriate Legislative or Executive act.

The resolution in question was introduced, discussed, and passed, not as a joint, but as a separate resolution. It asserts no Legislative power; proposes no Legislative action; and neither possesses the form nor any of the attributes of a Legislative measure. It does not appear to have been entertained or passed, with any view or expectation of its issuing in a law or joint resolution, or in any other legislative action.

Whilst wanting both the form and substance of a Legislative measure, it is equally manifest, that the resolution was not justified by any of the Executive powers conferred on the Senate. These powers relate exclusively to the consideration of treaties and nomination to office; and they are exercised in secret session, and with closed doors. The resolution does not apply to any treaty or nomination, and was passed in a public session.

Nor does this proceeding in any way belong to that class of incidental resolutions which relate to the officers of the Senate, to their chamber, and other matters of the like nature—in all which either House may lawfully proceed, without any co-operation with the other, or with the President.

On the contrary, the whole phraseology and sense of the resolution seem to be judicial. Its essence, true character, and only practical effect, are to be found in the conduct which it charges upon the President, and in the judgment which it pronounces on that conduct. The resolution, therefore, though discussed and adopted by the Senate in its Legislative capacity, is, in its office, and in all its characteristics, essentially judicial.

That the Senate possesses a high Judicial power, and that instances may occur in which the President of the United States will be amenable to it, is undeniable. But under the provisions of the constitution, it would seem to be equally plain that neither the President nor any other officer can be rightfully subjected to the operation of the Judicial power of the Senate, except in the cases and under the forms prescribed by the constitution.

The Constitution declares that "the President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors"—that the House of Representatives 'shall have the sole power of impeachments'—that 'when sitting for that purpose, they shall be on oath or affirmation'—that 'when the President of the United States is tried, the Chief Justice shall preside'—that 'no person shall be convicted without the concurrence of two-thirds of the members present'—and that 'judgment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States!'

The resolution above quoted, charges, in substance, that, in certain proceedings relating to the public revenue, the President has usurped authority and power not conferred upon him by the Constitution and laws, and that in doing so, he violated both. Any such act constitutes a high crime—one of the highest, indeed, which the President can commit—a crime which justly exposes him to impeachment by the House of Representatives, and, upon due conviction, to removal from office, and to the complete and immutable disfranchisement prescribed by the Constitution.

The resolution, then, was in substance an impeachment of the President; and, in its passage, amounts to a declaration by a majority of the Senate, that he is guilty of an impeachable offence. As such, it is spread upon the journals of the Senate—published to the nation and to the world—made part of our enduring archives—and incorporated in the history of the age. The punishment of removal from office, and future disqualification, does not, it is true, follow this decision, if the regular forms of proceeding had been pursued, because the requisite number did not concur in the result. But the moral influence of a solemn declaration by a majority of the Senate, that the accused is guilty of the offence charged upon him, has been as effectually secured, as if the like declaration had been made upon an impeachment expressed in the same terms. Indeed, a greater practical effect has been gained, because the votes given for the resolution, though not sufficient to authorise a judgment of guilty on an impeachment, were numerous enough to carry that resolution.

That the resolution does not expressly allege that the assumption of power and authority, which it condemns, was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned, necessarily implies volition and design in the individual to whom it is imputed, and being unlawful in its character, the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. The charge is not of a mistake in the exercise of supposed powers, but of the assumption of powers not conferred by the Constitution and laws, but in derogation of both, and nothing is suggested to excuse or palliate the turpitude of the act. In the absence of any such excuse or palliation, there is only room for one inference; and that is, that the intent was unlawful and corrupt. Besides, the resolution not only contains no mitigating suggestion, but, on the contrary, it holds up the act complained of, as justly obnoxious to censure and reprobation: and thus as distinctly stamps it with impurity of motive, as if the strongest epithets had been used.

The President of the United States, therefore, has been, by a majority of his constitutional triers, accused and found guilty of an impeachable offence: but in no part of this proceeding have the directions of the Constitution been observed.

The impeachment, instead of being preferred and prosecuted by the House of Representatives, originated in the Senate, and was prosecuted without the aid or concurrence of the other House. The oath or affirmation prescribed by the Constitution, was not taken by the Senators; the Chief Justice did not preside; no notice of the charge was given to the accused; and no opportunity afforded him to respond to the accusation, to meet his accusers face to face, to cross examine the witnesses, to procure counteracting testimony, or to be heard in the defence. The safe-guards and formalities which the Constitution has connected with the power of impeachment, were doubtless supposed by the framers of that instrument, to be essential to the protection of the public servant, to the attainment of justice, and to the order, impartiality, and dignity of the procedure. These safe-guards and formalities were not only partially disregarded, in the commencement and conduct of these proceedings, but, in their result, I find myself convicted by less than two-thirds of the members present, for an impeachable offence.

In vain may it be alleged in defence of his proceeding, that the form of the resolution is not that of an impeachment, or of a judgment thereupon, that the punishment prescribed in the constitution does not follow its adoption, or that in this case, no impeachment is to be expected from the House of Representatives. It is because it did not assume the form of an impeachment, that it is the more palpably repugnant to the constitution; for it is through that form only that the President is judicially responsible to the Senate; and though neither removal from office nor future disqualification ensues, yet it is not to be presumed, that the framers of the constitution considered either or both of those results, as constituting the whole of the punishment they prescribed. The judgment of GUILTY by the highest tribunal in the Union; the stigma it would inflict on the offender, his family and fame; and the perpetual record on the journal, handing down to future generations the story of his disgrace, were doubtless regarded by them as the bitterest portions, if not the very essence of that punishment. So far, therefore, as some of its material parts are concerned, the passage, recording, and promulgation of the resolution, are an attempt to bring them on the President, in a manner unauthorised by the constitution. To shield him and other officers who are liable to impeachment, from consequences so momentous, except when really merited by official delinquencies, the constitution has most carefully guarded the whole process of impeachment. A majority of the House of Representatives, must think the officer guilty, before he can be charged. Two thirds of the Senate must pronounce him guilty or he is deemed to be innocent. Forty six Senators appear by the journal to have been present when the vote on the resolution was taken. If, after all the solemnities of an impeachment, thirty of those Senators had voted that the President was guilty, yet would he have been acquitted; but by the mode of proceeding adopted in the present case, a lasting record of conviction has been entered up by the votes twenty six Senators, without an impeachment or trial, whilst the constitution expressly declares that to the entry of such a judgment, an accusation by the House of Representatives, a trial by the Senate, and a concurrence of two thirds in the vote of guilty, shall be indispensable prerequisites.

Whether or not an impeachment was to be expected from the House of Representatives, was a point on which the Senate had no constitutional right to speculate, and in respect to which, even had it possessed the spirit of prophecy, its anticipations would have furnished no just grounds for the procedure. Admitting that there was reason to believe that a violation of the constitution and laws had been actually committed by the President, still it was the duty of the Senate, as his sole constitutional judges, to wait for an impeachment until the House should think proper to prefer it. The members of the Senate could have no right to infer that no impeachment was intended. On the contrary, every legal and rational presumption on their part ought to have been, that if there was good reason to believe him guilty of an impeachable offence, the House of Representatives would perform its constitutional duty, by arraigning the offender before the justice of his country. The contrary presumption would involve an implication derogatory to the integrity and honor of the Representatives of the People. But suppose the suspicion thus implied were actually entertained, and for good cause, how can it justify the assumption by the Senate of powers not conferred by the constitution?

It is only necessary to look at the condition in which the Senate and the President have been placed by this proceeding, to perceive its utter incompatibility with the provisions and the spirit of the constitution, and with the plainest dictates of humanity and justice.

If the House of Representatives shall be of opinion that there is just grounds for the censure pronounced upon the President, then will it be the solemn duty of that House to prefer the proper accusation, and to cause him to be brought to trial by the constitutional tribunal. But in what condition would he find that tribunal? A majority of its members have already considered the case, and have not only formed but expressed a deliberate judgment upon its merits. It is the policy of our benign systems of jurisprudence, to secure, in all criminal proceedings, and even in the most trivial litigations, a fair, unprejudiced and impartial trial. And surely it cannot be less important that such a trial should be secured to the highest officer of the Government.

The constitution makes the House of Representatives the exclusive judges, in the first instance, of the question, whether the President has committed an impeachable offence. A majority of the Senate, whose interference with this preliminary question, has, for the best of all reasons, been studiously excluded, anticipate the action of the House of Representatives assume not only the function which belongs exclusively to that body, but convert themselves into accusers, witnesses, counsel, and judges, and prejudge the whole case. Thus presenting the appalling spectacle, in a free state, of judges going through a labored preparation for an impartial hearing and decision, by a previous exparte investigation and sentence against the supposed offender.

There is no more settled axiom in that government whence we derived the model of this part of our constitution than "that the Lords cannot impeach any to themselves, nor join in the accusation, *because they are judges.*"—Independently of the general reasons on which this rule is founded, its propriety and importance are greatly increased by the nature of the impeaching power. The power of arraigning the high officers of government before a tribunal whose sentence may expel them from their seats and brand them as infamous, is eminently a popular remedy—a remedy designed to be employed for the protection of private right and public liberty, against the abuses of injustice and the encroachments of arbitrary power. But the framers of the constitution were also undoubtedly aware, that this formidable instrument had been, and might be abused; and that from its very nature, an impeachment for high crimes and misdemeanors, whatever might be its result, would in most cases be accompanied by so much of dishonor and reproach, solicitude and suffering, as to make the power of preferring it, one of the highest solemnity and importance. It was due to both these considerations, that the impeaching power should be lodged in the hands of those who, from the mode of their election and the tenure of their offices would most accurately express the popular will, and at the same time be most directly and speedily amenable to the people. The theory of this wise and benignant intention is in the present case, effectually defeated by the proceedings of the Senate. The members of that body represent, not the people, but the States; and though they are undoubtedly responsible to the States, yet from their extended term of service, the effect of that responsibility, during the whole period of that term, must very much depend upon their own impressions of its obligatory force. When a body thus constituted, expresses, beforehand, its opinions in a particular case, and thus indirectly invites a prosecution, it not only assumes a power intended for wise reasons to be confined to others, but it shields the latter from that exclusive and personal responsibility under which it was intended to be exercised, and reverses the whole scheme of this part of the constitution.

Such would be some of the objections to this procedure, even if it were admitted that there is just ground for imputing to the President the offences charged in the resolution. But, if on the other hand, the House of Representatives shall be of opinion that there is no reason for charging them upon him, and shall therefore deem it improper to prefer an impeachment, then will the violation of privilege, as it respects that House, of justice as it regards the President, and of the constitution as it relates to both, be only the more conspicuous and impressive.

The constitutional mode of procedure on an impeachment has not only been wholly disregarded, but some of the first principles of natural right and enlightened jurisprudence, have boen violated in the very form of the resolution. It carefully abstains from averring in *which* of "the late proceedings in relation to the public revenue, the President has assumed upon himself authority and power not conferred by the constitution and laws." It carefully abstains from specifying *what laws* or *what parts* of the constitution have been violated. Why was not the certainty of the offence—"the nature and cause of the accusation"—set out in the manner required in the constitution, before even the humblest individual, for the smallest crime, can be exposed to condemnation? Such a specification was due to the accused, that he might direct his defence to the real points of attack; to the People, that they might clearly understand in what particulars their institutions had been violated, and to the truth and certainty of our public annals. As the record now stands, whilst the resolution plainly charges upon the President at least one act of usurpation in "the late Executive proceedings in relation to the public revenue" and is so framed that those Senators who believed that one such act, and only one, had been committed, could assent to it; its language is yet broad enough to include several such acts, and so it may have been regarded by some of those who voted for it. But though the accusation is thus comprehensive in the censures it implies, there is no such certainty of time, place, or circumstance, as to exhibit the particular conclusion of fact or law which induced any one Senator to vote for it. And it may well have happened, that whilst one Senator believed that one particular act embraced in the resolution, was an arbitrary and unconstitutional assumption of power, others of the majority may have deemed that very act both constitutional and expedient, or if not expedient, yet still within the pale of the constitution. And thus a majority of the Senators may have been enabled to concur, in a vague and undefined accusation, that the President, in the course of "late Executive proceedings in relation to the public revenue," had violated the constitution and laws; whilst, if a separate vote had been taken in respect to each particular act, included within the general terms, the accusers of the President might, on any such vote, have been found in the minority.

Still further to exemplify this feature of the proceeding, it is important to be remarked, that the resolution, as originally offered to the Senate, specified, with adequate precision, certain acts of the President, which it denounced as a violation of the constitution and laws; and that it was not until the very close of the debate, and when, perhaps, it was apprehended that a majority might not sustain the specific accusation contained in it, that the resolution was so modified as to assume its present form. A more striking illustration of the soundness and necessity of the rules which forbid vague and indefinite generalities, and require a reasonable certainty in all judicial allegations, and a more glaring instance of the violation of those rules, has seldom been exhibited.

In this view of the resolution it must certainly be regarded, not as a vindication of any particular provision of the law or the constitution, but simply as an official rebuke or condemnatory sentence, too general and indefinite to be easily repelled, but yet sufficiently precise to bring into discredit the conduct and motives of the Executive. But whatever it may have been intended to accomplish, it is obvious that the vague, general, and abstract form of the resolution, is in perfect keeping with those other departures from first principles, and settled improvements in jurisprudence, so properly the boast of free countries in modern times. And it is not too much to say of the whole of these proceedings, that if they shall be approved and sustained by an intelligent people, then will that great contest with arbitrary power, which had established in statutes, in bills of rights, in sacred charters, and in constitutions of government, the right of every citizen, to a notice before trial, to a hearing before conviction, and to an impartial tribunal for deciding on the charge, have been waged in vain.

If the resolution had been left in its original form, it is not to be presumed that it could ever have received the assent of a majority of the Senate, for the acts therein specified as violations of the constitution, and laws were clearly within the limits of the Executive authority. They are the "dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposite with the Bank of the United States and its branches, in conformity with the President's opinion; and appointing his successor to effect such removal, which has been done." But as no other specification has been substituted, and as these were the "Executive proceedings in relation to the public revenue," principally referred to in the course of the discussion, they will doubtless be generally regarded as the acts intended to be denounced as "an assumption of authority and power not conferred by the constitution or laws, but in derogation of both."—It is therefore due to the occasion that a condensed summary of the views of the Executive in respect to them, should be here exhibited.

By the constitution, "the Executive power is vested in a President of the United States." Among the duties imposed upon him, and which he is sworn to perform, is that of "taking care that the laws be faithfully executed."—Being thus made responsible for the entire action of the Executive Department, it was but reasonable that the power of appointing, overseeing and controlling those who execute the laws—a power in its nature executive—should remain in his hands. It is, therefore, not only his right, but the constitution makes it his duty, to "nominate, and by and with the advice and consent of the Senate appoint," all "officers of the United States whose appointments are not in the constitution otherwise provided for," with a provision that the appointment of inferior officers may be vested in the President alone, in the Courts of Justice, or in the Heads of Departments.

The Executive power vested in the Senate, is neither that of "nominating" nor "appointing." It is merely a check upon the Executive power of appointment. If individuals are proposed for appointment by the President, by them deemed incompetent or unworthy, they may withhold their consent, and the appoint

ment cannot be made. They check the action of the Executive, but cannot, in relation to those very subjects, act themselves, nor direct him. Selections are still made by the President, and the negative given to the Senate, without diminishing his responsibility, furnishes an additional guarantee to the country that the subordinate Executive, as well as the judicial offices, shall be filled with worthy and competent men.

The whole Executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle, the power of removal, which, like that of appointment, is an original Executive power, is left unchecked by the constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible. In the government from which many of the fundamental principles of our system are derived, the Head of the Executive Department originally had power to appoint and remove at will all officers, Executive and Judicial. It was to take the Judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behaviour. Nor is it conceivable why they are placed, in our constitution, upon a tenure different from that of all other officers appointed by the Executive, unless it be for the same purpose.

But if there were any just ground for doubt, on the face of the constitution, whether all executive officers are removable at the will of the President, it is obviated by the cotemporaneous construction of the instrument, and the uniform practice under it.

The power of removal was a topic of solemn debate in the Congress of 1789, while organizing the administrative departments of the government, and it was finally decided that the President derived from the constitution, the power of removal, so far as it regards that department for whose acts he is responsible.—Although the debate covered the whole ground, embracing the Treasury as well as the other Executive Departments, it arose on a motion to strike out of the bill to establish a Department of Foreign Affairs, since called the Department of State, a clause declaring the Secretary "to be removable from office by the President of the United States." After that motion had been decided in the negative, it was perceived that the words did not convey the sense of the House of Representatives, in relation to the true source of the power of removal. With the avowed object of preventing any future inference, that this power was exercised by the President in virtue of a grant from Congress, when in fact that body considered it as derived from the constitution, the words which had been the subject of debate were struck out, and in lieu thereof a clause was inserted in a provision concerning the chief Clerk of the Department, which declared that "whenever the said principal officer shall be *removed* from office by the President of the United States, or in any other case of vacancy," the Chief Clerk should, during such vacancy, have charge of the papers of the office. This change having been made for the express purpose of declaring the sense of Congress, that the President derived the power of removal from the constitution, the act as it passed has always been considered as a full expression of the sense of the Legislature on this important part of the American constitution.

Here then we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the convention which framed the constitution, and in the State conventions, which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is beyond the reach of Legislative authority." Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of executive officers, from the Heads of Departments to the messengers of Bureaus.

The Treasury Department, in the discussions of 1789, was considered on the same footing as the other Executive Departments, and in the act establishing it, the precise words were incorporated indicative of the sense of Congress that the President derives his power to remove the Secretary from the constitution, which appear in the act establishing the Department of Foreign Affairs. An assistant Secretary of the Treasury was created, and it was provided that he should take charge of the books and papers of the Department, "whenever the Secretary shall be *removed* from office by the President of the United States." The Secretary of the Treasury being appointed by the President, and being considered as constitutionally removable by him, it appears never to have occurred to any one in the Congress of 1789, or since, until very recently, that he was other than an Executive officer, the mere instrument of the Chief Magistrate in the execution of the laws subject, like all other Heads of Departments, to his supervision and control.

No such idea as an officer of the Congress can be found in the constitution, or appears to have suggested itself to those who organized the Government. There are officers of each House, the appointment of which is authorised by the constitution, but all officers referred to in that instrument as coming with the appointing power of the President, whether established thereby or created by law, are "Officers of the United States." No joint power of appointment is given to the two Houses of Congress, nor is there any accountability to them as one body; but as soon as any office is created by law, of whatever name or character, the appointment of the person or persons to fill it, devolves by the constitution upon the President, with the advice and consent of the Senate, unless it be an inferior office, and the appointment be vested by the law itself "in the President alone, in the courts of law, or the Heads of Departments."

But at the time of the organization of the Treasury Department, an incident occurred which distinctly evinces the unanimous concurrence of the first Congress in the principle that the Treasury Department is wholly Executive in its character and responsibilities. A motion was made to strike out the provision of the bill making it the duty of the Secretary "to digest and report plans for the improvement and management of the revenue, and for the support of public credit," on the ground that it would give the Executive Department of the Government too much influence and power in Congress. The motion was not opposed on the ground that the Secretary was the officer of Congress and responsible to that body, which would have been conclusive, if admitted, but on other grounds which conceded his Executive character throughout. The whole discussion evinces an unanimous concurrence in the principle, that the Secretary of the Treasury is wholly an Executive officer, and the struggle of the minority was to restrict his power as such. From that time down to the present, the Secretary of the Treasury, the Treasurer, Register, Comptrollers, Auditors, and Clerks, who fill the offices of that Department, have, in the practice of the Government, been considered and treated as on the same footing with corresponding graces of officers in all the other Executive Departments.

The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive Department in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate Departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provision, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removal at his will.

Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way, except by law; but whenever or howsomever obtained, its custody always has been, and always must be unless the constitution be changed, intrusted to the Executive Department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public moneys shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed—yet will the custody remain in the Executive Department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of Executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference in principle, whether the public property be in the form of arms, munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived—none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive Department, the custody of the public property or money, without an assumption of Executive power, and a subversion of the first principles of the constitution.

The Congress of the United States have never passed an act imperatively directing that the public moneys shall be kept in any particular place or places. From the origin of the Government to the year 1816, the statute book wholly silent on the subject. In 1788 a Treasurer was created, subordinate to the Secretary of the Treasury, and through him to the President. He was required to give bond, safely to keep, and faithfully to disburse the public moneys, without any direction as to the manner or places in which they should be kept. By reference to the practice of the Government, it is found, that from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued, with the silent acquiesence of Congress, from 1789 down to 1816; and although many banks were selected and discharged, and although a portion of the moneys were first placed in the State Banks, and then in the former bank of the United States, and upon the dissolution of that, were again transferred to the State Banks, no legislation was thought necessary by Congress, and all the operations were originated and perfected by Executive authority. The Secretary of the Treasury, responsible to the President, and with his approbation, made contracts and arrangements in relation to the whole subject matter, which was thus entirely committed to the direction of the President, under his responsibilities to the American People, and to those who were authorized to impeach and punish him for any breach of this important trust.

The act of 1816, establishing the Bank of the United States, directed the deposites of public money to be made in that bank and its branches, in places in which the said bank and branches thereof may be established "unless the Secretary, of the Treasury should otherwise order and direct in which event, he was required to give his reasons. This was but a continuation of his pre-existing powers as the Head of all Executive Department, to direct where the deposites should be made, with the superadded obligation of giving his reasons in Congress for making them elsewhere than to the Bank of the United States and its branches. It is not to be considered that this provision in any degree altered the relation between the Secretary of the Treasury and the President, as the responsible Head of the Executive Department, or released the latter from his constitutional obligation to "take care that the laws be faithfully executed." On the contrary, it increased his responsibilities, by adding another to the long list of laws which it was his duty to carry into effect.

It would be an extraordinary result, if, because the person charged by law with a public duty, is one of the Secretaries, it were less the duty of the President to see that law faithfully executed, than other laws enjoining duties upon subordinate officers or private citizens. If there be any difference it would seem that the obligation is the stronger in relation to the former, because the neglect is in his presence, and the remedy is at hand.

It cannot be doubted that it was the legal duty of the Secretary of the Treasury to order and direct the deposites of the public money to be made elsewhere than in the Bank of the United Srtes, *whenever sufficient reasons existed for making the change.* If, in such a case, he neglected or refused to act, he would neglect or refuse to execute the law. What would then be the sworn duty of the President? Could he say that the constitution did not bind him to see the law faithfully executed, because it was one of the Secretaries, and not himself upon whom the service was specially imposed? Might he not be asked whether there was any such limitation to his obligations prescribed in the Constitution? Whether he is not equally bound to take care that the laws be faithfully executed, whether they impose duties on the highest officer of State, or the lowest subordinate in any of the Departments. Might he not be told, that it was for the sole purpose of causing all executive officers, from the highest to the lowest, faithfully to perform the services required of them by law—that the People of the United States have made him their Chief Magistrate, and the constitution has clothed him with the entire Executive power of this Government? The principles implied in these questions appear too plain to need elucidation.

But here, also, we have a contemporaneous construction of the act, which shows that it was not understood as in any way changing the relations between the President and Secretary of the Treasury, or as placing the latter out of Executive control, even in relation to the deposites of the public money. Nor on this point are we left to any equivocal testimony. The documents of the Treasury Department show that the Secretary of the Treasury did apply to the President, and obtain his approbation and sanction to the original transfer of the public deposites to the present Bank of the United States, and did carry the means into effect in obedience to his decision. They also show that transfers of the public deposites from the Branches of the Bank of the United States to State Banks, at Chilicothe, Cincinnati, and Louisville, in 1819. were made with the approbation of the President, and by his authority. They show, that upon all important questions appertaining to his department, whether they related to the public deposites or other matters, it was the constant practice of the Secretary of the Treasury to obtain for his acts the approval and sanction of the President. These acts, and the principles on which they were founded, were known to all the departments of the Government, to Congress, and the country; and, until very recently, appear never to have been called in question.

Thus was it settled by the constitution, the laws and the whole practice of the Government, that the entire Executive power is vested in the President of the United States; that as incident to that power, the right of appointing and removing those officers who are to aid him in the execution of the laws, with such restrictions only as the constitution prescribes, is vested in the President; that the Secretary of the Treasury is one of those officers; that the custody of the public property and money is an executive function, which, in relation to the money, has always been exercised through the Secretary of the Treasury and his subordinates; that in the performance of these duties, he is subject to the supervision and control of the President, and in all important measures having relation to them, consults the Chief Magistrate, and obtains his approval and sanction; that the law establishing the Bank did not, as it could not, change the relation between the President and the Secretary—did not release the former from his obligation to see the law faithfully executed, nor the latter from the President's supervision and control; that afterwards, and before; the Secretary did in fact consult, and obtain the sanction of the President, to transfers and removals of the public deposites; and that all departments of the Government, and the nation itself, approved or acquiesced in these acts and precipices, as in strict conformity with our constitution and laws.

During the last year, the approaching termination, according to the provisions of its charter, and the solemn decision of the American People, of the Bank of the United States, made it expedient, and its exposed abuses and corruptions, made it, in my opinion, the duty of the Secretary of the Treasury, to place the moneys of the United States in other depositories. The Secretary did not concur in that opinion, and declined giving the necessary order and direction. So glaring were the abuses and corruptions of the Bank, so evident its fixed purpose to persevere in them, and so palpable its design, by its money and power, to control the Government and change its character, that I deemed it the imperative duty of the Executive authority, by the exertion of every power confided to it by the constitution and laws, to check its career, and lessen its ability to do mischief, even in the painful alternative of dismissing the Head of one of the Departments. At the time the removal was made, other causes sufficient to justify it existed; but if they had not, the Secretary would have been dismissed for this cause only.

His place I supplied by one whose opinions were well known to me, and whose frank expression of them, in another situation and whose generous sacrifices of interest and feeling, when unexpectedly called to the station he now occupies, ought forever to have shielded his motives from suspicion, and his character from reproach. In accordance with the opinions long before expressed by him, he proceeded, with my sanction, to make arrangements for depositing the moneys of the United States in other safe institutions.

The resolutions of the Senate, as originally framed, and as passed if it refers to the acts, pre-supposes a right in that body to interfere with this exercise of Executive power. If the principle be once admitted, it is not difficult to perceive where it may end. If, by a mere denunciation like this resolution, the President should ever be induced to act, in a matter of official duty, contrary to the honest convictions of his own mind, in compliance with the wishes of the Senate, the constitutional independence of the Executive Department would be as effectually destroyed, and its power as effectually transferred to the Senate, as if that end had been accomplished by an amendment of the constitution. But if the Senate have a right to interfere with the Executive powers, they have also the right to make that interference effective; and if the assertion of the power implied in the resolution be silently acquiesced in, we may reasonably apprehend that it will be followed, at some future day, by an attempt at actual enforcement. The Senate may refuse, except on the condition that he will surrender his opinions to theirs and obey their will, to perform their own constitutional functions; to pass the necessary laws; to sanction appropriations proposed by the House of Representatives, and to confirm proper nominations made by the President. It has already been maintained (and it is not conceivable that the resolution of the Senate can be based on any other principle) that the Secretary of the Treasury is the officer of Congress, and independent of the President; that the President has no right to control him, and consequently none to remove him—With the same propriety, and on similar grounds, may the Secretary of State, the Secretaries of War and the Navy, and the Postmaster General, each in succession, be declared independent of the President, the subordinates of Congress, and removable only with the concurrence of the Senate. Followed in its consequences, this principle will be found effectually to destroy one co-ordinate Department of the Government, to concentrate in the hands of the Senate the whole Executive power and to leave the President as powerless as he would be useless—the shadow of authority, after the substance had departed.

The time and the occasion which have called forth the resolution of the Senate, seem to impose upon me an additional obligation not to pass it over in silence. Nearly forty-five years had the President exercised, without a question as to his rightful authority, those powers for the recent assumption of which he is now denounced. The vicissitudes of peace and war had attended our Government; violent parties, watchful to take advantage of any seeming usurpation on the part of the Executive, had distracted our counsels; frequent removals, or forced resignations, in every sense tantamount to removals, had been made of the Secretary and other officers of the Treasury; and yet, in no one instance is it known, that any man, whether patriot or partisan, had raised his voice against it as a violation of the Constitution. The expediency and justice of such changes, in reference to public officers of all grades, have frequently been the topics of discussion; but the constitutional right of the President to appoint, control, and remove the Head of the Treasury, as well as all other Departments, seems to have been universally conceded. And what is the occasion upon which other principles have been first officially asserted? The Bank of the United States, a great moneyed monopoly, had attempted to obtain a renewal of its charter, by controlling the elections of the People and the action of the Government. The use of its corporate funds and power in that attempt, was fully disclosed; and it was made known to the President that the corporation was putting in train the same course of measures, with the view of making another vigorous effort, through an interference in the elections of the People, to control public opinion and force the Government to yield to its demands. This, with its corruption of the press, its violation of its charter, its exclusion of the Government Directors from its proceedings, its neglect of duty, and arrogant pretensions, made it, in the opinion of the President, incompatible with the public interest and the safety of our institutions, that it should be longer employed as the fiscal agent of the Treasury. A Secretary of the Treasury, appointed in the recess of the Senate, who had not been confirmed by that body, and whom the President might or might not at his pleasure nominate to them, refused to do what his superior in the Executive Department considered the most imperative of his duties, and became in fact, however innocent his motives, the protector of the Bank. And on this occasion it is discovered for the first time, that those who framed the constitution misunderstood it; that the first Congress and all its successors have been under a delusion; that the practice of near forty-five years, is but a continued usurpation; that the Secretary of the Treasury is not responsible to the President; and that to remove him is a violation of the constitution and laws, for which the President deserves to stand forever dishonored on the journals of the Senate.

There are also some other circumstances connected with the discussion and passage of the resolution, to which I feel it to be, not only my right, but my duty, to refer. It appears by the journal of the Senate, that among the twenty-six Senators who voted for the resolution on its final passage, and who had supported it in debate, in its original form, were one of the Senators from the State of Maine, the two Senators from New Jersey, and one of the Senators from Ohio. It also appears by the same journal, and by the files of the Senate, that the Legislatures of these States had severally expressed their opinions in respect to the Executive proceedings drawn in question before the Senate.

The two branches of the Legislature of the State of Maine, on the 25th of January, 1834, passed a preamble and series of resolutions in the following words:

"Whereas at an early period after the election of Andrew Jackson to the presidency, in accordance with the sentiments which he had uniformly expressed, the attention of Congress was called to the constitutionality and expediency of the removal of the charter of the United States Bank: And whereas, the Bank has transcended its chartered limits in the management of its business transactions, and has abandoned the object of its creation, by engaging in political controversies, by wielding its power and influence to embarrass the administration of the General Government, and by bringing insolvency and distress upon the commercial community: And whereas, the public security from such an institution consists less in its present pecuniary capacity to discharge its liabilities than in the identity in which the trusts reposed in it have been executed: And whereas, the abuse and misapplication of the powers conferred have destroyed the confidence of the public in the officers of the Bank, and demonstrated that such powers endanger the stability of republican institutions: Therefore, Resolved, That in the removal of the public deposites from the Bank of the U. States, as well as in the manner of their removal, we recognise in the administration an adherence to constitutional rights, and the performance of a public duty.

"Resolved, That this Legislature entertain the same opinion as heretofore expressed by preceding Legislatures of this State, that the Bank of the United States ought not to be rechartered.

"Resolved, That the Senators of this State in the Congress of the United States be instructed, and the Representatives be requested to oppose the restoration of the deposites, and the renewal of the charter of the United States Bank."

On the 11th of January, 1834, the House of Assembly and Council composing the Legislature of the State of New Jersey, passed a preamble and a series of resolutions in the following words:

"Whereas the present crisis in our public affairs calls for a decided expression of the voice of the people of this State; and whereas we consider it the undoubted right of the Legislature of the several States to instruct those who represent their interests in the councils of the nation, in all matters which intimately concern the public weal, and may affect the happiness or well being of the people: Therefore,

"1. Be it resolved by the Council and General Assembly of this State, That while we acknowledge with feelings of devout gratitude our obligations to the great Ruler of nations for his mercies to us as a people, that we have been preserved alike from foreign war, from the evils of internal commotions, and the machinations of designing and ambitious men who would prostrate the fair fabric of our Union; that we ought, nevertheless, to humble ourselves in His presence, and implore His aid for the perpetuation of our republican institutions, and for a continuance of that unexampled prosperity which our country has hitherto enjoyed.

"2. Resolved, That we have undiminished confidence in the integrity and firmness of the venerable patriot who now holds the distinguished post of Chief Magistrate of this nation, and whose purity of purpose and elevated motives have so often received the unqualified approbation of a large majority of his fellow-citizens.

"3. Resolved, That we view with agitation and alarm the existence of a great moneyed incorporation, which threatens to embarrass the operations of the Government, and by means of its unbounded influence upon the currency of the country, to scatter distress and ruin throughout the community; and, that we, therefore, solemnly believe the present Bank of the United States ought not to be rechartered.

"4. Resolved, That our Senators in Congress be instructed, and our members of the House of Representatives be requested to sustain, by their votes and influence, the course adopted by the Secretary of the Treasury, Mr. Taney, in relation to the Bank of the United States and the deposites of the Government moneys, believing as we do the course of the Secretary to have been constitutional, and that the public good required its adoption.

"5. Resolved, That the Governor be requested to forward a copy of the above resolutions to each of our Senators and Representatives from this State in the Congress of the United States."

On the 21st day of February last, the Legislature of the same State, reiterated the opinions and instructions before given, by joint resolutions, in the following words:

"Resolved by the Council and General Assembly of the State of New Jersey, That they do adhere to the resolutions passed by them on the 11th day of January last, relative to the President of the United States, the Bank of the United States, and the course of Mr. Taney in removing the Government deposites.

"Resolved, That the Legislature of New Jersey have not seen any reason to depart from such resolutions since the passage thereof; and it is their wish that they should receive from our Senators and Representatives of this State in the Congress of the United States, that attention and obedience which are due to the opinion of a sovereign State, openly expressed in its Legislative capacity."

On the 2nd of January, 1834, the Senate and House of Representatives composing the Legislature of Ohio, passed a preamble and resolutions in the following words:

"Whereas there is reason to believe that the Bank of the United States will attempt to obtain a renewal of its charter at the present session of Congress: And whereas it is abundantly evident that said Bank has exercised powers derogatory to the spirit of our free institutions and dangerous to the liberties of these United States. And whereas, there is just reason to doubt the constitutional power of Congress to grant acts of incorporation for banking purposes out of the District of Columbia: And whereas, we believe the proper disposal of the public lands to be of the utmost importance to the People of these U. States, and that honor and good faith require their equitable distribution: Therefore

"Resolved by the General Assembly of the State of Ohio, That we consider the removal of the public deposites from the Bank of the United States as required by the best interests of our country, and that a proper sense of public duty imperiously demanded that that institution should be no longer used as a depository of the public funds.

"Resolved, also, That we view, with decided disapprobation, the renewed attempts in Congress to secure the passage of the bill providing for the disposal of the public domain upon the principles proposed by Mr. Clay, inasmuch as we believe that such a law would be unequal in its operations, and unjust in its results.

"Resolved, also, That we heartily approve of the principles set forth in the late veto message upon that subject, and,

"Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to prevent the rechartering of the Bank of the United States; to sustain the administration in its removal of the public deposites; and to oppose the passage of a land bill containing the principles adopted in the act upon that subject passed at the last session of Congress.

"Resolved, That the Governor be requested to transmit copies of the foregoing preamble and resolutions to each of our Senators and Representatives."

It is thus seen that four Senators have declared by their votes that the President, in the late Executive proceedings in relation to the revenue, had been guilty of the impeachable offence of "assuming upon himself authority and power not conferred by the constitution and laws, but in derogation of both," whilst the Legislatures of their respective States had deliberately approved those very proceedings, as consistent with the constitution, and demanded by the public good. If these four votes had been given in accordance with the sentiments of the Legislatures, as above expressed, there would have been but twenty-four votes out of forty-six for censuring the President and the unprecedented record of his conviction could not have been placed upon the journals of the Senate.

In thus referring to the resolutions and instructions of the State Legislatures, I disclaim and repudiate all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents, and their country. The facts now stated belong to the history of these proceedings, and are important to the just developement of the principles and interests involved in them, as well as to the proper vindication of the Executive Department; and with that view, and that view only, are they made the topic of remark.

The dangerous tendency of the doctrine which denies to the President the power of su-

pervising, directing, and removing the Secretary of the Treasury, in like manner with the other Executive officers, would soon be manifest in practice, were the doctrine to be established. The President is the direct representative of the American People, but the Secretaries are not. If the Secretary of the Treasury be independent of the President in the execution of the laws, then is there no direct responsibility to the People in that important branch of this Government. to which is committed the care of the national finances. And it is in the power of the Bank of the United States, or any other corporation, body of men, or individuals, if a Secretary shall be found to accord with them in opinion, or can be induced in practice to promote their views, to control, through him, the whole action of the Government, (so far as it is exercised by his Department,) in defiance of the Chief Magistrate elected by the people and responsible to them.

But the evil tendency of the particular doctrine adverted to, though sufficiently serious, would be as nothing in comparison with the pernicious consequences which would inevitably flow from the approbation and allowance by the people, and the practice by the Senate, of the unconstitutional power of arraigning and censuring the official conduct of the Executive, in the manner recently pursued. Such proceedings are eminently calculated to unsettle the foundations of the Government; to disturb the harmonious action of its different Departments; and to break down the checks and balances by which the wisdom of its framers sought to ensure its stability and usefulness.

The honest differences of opinion which occasionally exist between the Senate and the President, in regard to matters in which both are obliged to participate, are sufficiently embarrassing. But if the course recently adopted by the Senate shall hereafter be frequently pursued, it is not only obvious that the harmony of the relations between the President and the Senate will be destroyed, but that other and graver effects will ultimately ensue. If the censures of the Senate be submitted to by the President, the confidence of the people in his ability and virtue, and the character and usefulness of his administration, will soon be at an end, and the real power of the Government will fall into the hands of a body, holding their offices for long terms, not elected by the people, and not to them directly responsible.—If, on the other hand, the illegal censures of the Senate should be resisted by the President, collisions and angry controversies might ensue, discreditable in their progress, and in the end compelling the people to adopt the conclusion, either that their Chief Magistrate was unworthy of their respect, or that the Senate was chargeable with calumny and injustice.—Kither of these results would impair public confidence in the perfection of the system, and lead to serious alterations of its frame work, or to the practical abandonment of some of its provisions.

The influence of such proceedings on the Departments of the Government, and more especially on the States, could not fail to be extensively pernicious. When the judges in the last resort of official misconduct, themselves overleap the bounds of their authority, as prescribed by the Constitution, what general disregard of its provisions might not their example be expected to produce? And who does not perceive that such contempt of the Federal constitution, by one of its most important departments, would hold out the strongest temptation to resistance on the part of the state sovereignties, whenever they shall suppose their just rights to have been invaded?—Thus all the independent departments of the government, and the states which compose our confederated union, instead of attending to their appropriate duties, and leaving those who may offend, to be reclaimed or punished in the manner pointed out in the constitution, would fall to mutual crimination and recrimination, and give to the people, confusion and anarchy, instead of order and law; until at length some form of aristocratic power would be established on the ruins of the constitution or the states be broken into separate communities.

Far be it from me to charge, or to insinuate, that the present Senate of the United States intend, in the most distant way, to encourage such a result: It is not of their motives or designs but only of the tendency of their acts, that it is my duty to speak. It is, if possible, to make Senators themselves sensible of the danger which lurks under the precedent set in their resolution; and at any rate; to perform my duty, as the responsible Head of one of the co-equal Departments of the Government, that I have been compelled to point out the consequences to which the discussion and passage of the resolution may lead, if the tendency of the measure be not checked in its inception.

It is due to the high trust with which I have been charged; to those who may be called to succeed me in it; to the Representatives of the People, whose constitutional prerogative has been unlawfully assumed, to the People and to the States; and to the constitution they have established; that I should not permit its provisions to be broken down by such an attack on the Executive Department, without at least some effort "to preserve, protect, and defend" them. With this view, and for the reasons which have against the aforementioned proceedings of the Senate, as unauthorized by the constitution, contrary to its spirit and to several of its express provisions; subservise of that distribution of the powers of government which it has ordained and established; destructive of the cheeks and safe guards by which these powers were intended, on the one hand, to be controlled, and on the other to be protected, and calculated by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to the People, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice.

The resolution of the Senate contains an imputation upon my private as well as upon my public character; and as it must stand forever on their journals, I cannot close this substitute for that defence which I have not been allowed to present in the ordinary form; without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character and purposes from such an imputation. In vain do I bear upon my person, enduring memorials of that contest in which American liberty was purchased—in vain have I since periled property, fame and life, in defence of the rights and privileges so dearly bought—in vain am I now, without a personal aspiration, or the hope of individual advantage, encountering responsibilities and dangers, from which, by mere inactivity in relation to a single point; I might have been exempt—if any serious doubts can be entertained as to the purity of my purposes and motives. If I had been ambitious, I should have sought an alliance with that powerful institution, which even now aspires to no divided empire. If I had been venal, I should have sold myself to its designs—had I preferred personal comfort and official ease to the performance of my arduous duty, I should have ceased to molest it. In the history of conquerors and usurpers, never, in the fire of youth, nor in the vigor of manhood, could I find an attraction to lure me from the path of duty; and now, I shall scarcely find an inducement to commence their career of ambition, when gray hairs and a decaying frame, instead of inviting to toil and battle, call me to the contemplation of other worlds, where conquerors cease to be honored, and usurpers expiate their crimes. The only ambition I can feel, is to acquit myself to Him to whom I must soon render an account of my stewardship, to serve my fellow men, and live respected and honored in the history of my country. No, the ambition which leads me on, is an anxious desire and a fixed determination, to return to the people unimpaired the sacred trust they have confided to my charge—to heal the wounds of the constitution and preserve it from further violation, to persuade my countrymen, so far as I may, that it is not in a splendid Government, supported by powerful monopolies and aristocratical establishments, that they will find happiness, or their liberties protection, but on a plain system, void of pomp—protecting all, and granting favors to none—dispensing its blessings like the dews of Heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce. It is such a Government that the genius of our People requires—such an one only under which our States may remain for ages to come, united, prosperous and free. If the Almighty Being who has hitherto, sustained and protected me, will but vouchsafe to make my feeble powers instrumental to such a result, I shall anticipate with pleasure the place to be assigned me in the history of my country, and die contented with the belief, that I shall have contributed, in some small degree, to increase the value and prolong the duration of American Liberties.

To the end that the resolution of the Senate may not be hereafter drawn into precedent, with the authority of silent acquiesence on the part of the Executive Department; and to the end, also, that my motives and views in the Executive proceeding denounced in that resolution, may be known to my fellow citizens, to the world, and to all posterity, I respectfully request that this Message and Protest may be entered at length on the Journals of the Senate.

ANDREW JACKSON.

April 15th, 1834.

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*Yeas—Messrs. Bibb, Black. Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard. Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster—26.

Nays—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King, of Ala. King, of Ga., Linn, McKean, Moore, Morris, Robbinson. Shepley, Tallmadge, Tipton, White, Wilkins, Wright—20.

IN SENATE.

Monday, April 21, 1834.

The following message, explanatory of the Protest sent on the 17th instant, was received from the President of the United States, by Mr. Donelson, his Private Secretary.

To the Senate of the United States:

Having reason to believe that certain passages contained in my Message and Protest transmitted to the Senate on the 17th instant, may be misunderstood, I think it proper to state, that it was not my intention to deny in the said message, the power and right of the Legislative Department to provide by law for the custody, safe keeping, and disposition, of the public money and property of the United States.

Although I am well satisfied that such a construction is not warranted by any thing contained in that message, yet aware, from experience, that detached passages of an argumentative document, when disconnected from their context, and considered without reference to previous limitations, and the particular positions they were intended to refute or to establish, may be made to bear a construction, varying altogether from the sentiments really entertained and intended to be expressed; and deeply solicitous that my views on this point, should not, either now or hereafter, be misapprehended, I have deemed it due to the gravity of the subject, to the great interests it involves, and to the Senate, as well as to myself, to embrace the earliest opportunity to make this communication.

I admit, without reserve, as I have before done, the constitutional power of the Legislature, to prescribe, by law, the place or places in which the public money or other property is to be deposited; and to make such regulations concerning its custody, removal, or disposition, as they may think proper to enact.—Nor do I claim for the Executive any right to the possession or disposition of the public property or treasure, or any authority to interfere with the same, except when such possession, disposition, or authority, is given to him by law. Nor do I claim the right, in any manner, to supervise or interfere with the person intrusted with such property or treasure, unless he be an officer whose appointment is, under the constitution and laws, devolved upon the President, alone, or in conjunction with the Senate, and for whose conduct he is constitutionally responsible.

As the Message and Protest referred to may appear on the Journals of the Senate, and remain among the recorded documents of the nation, I am unwilling that opinions should be imputed to me, even through misconstruction, which I do not entertain, and more particularly am I solicitous, that I may not be supposed to claim for myself or my successors, any power or authority not clearly granted to the President by the constitution and laws. I have therefore respectfully to request that this communication may be considered a part of that message—and that it may be entered therewith on the Journals of the Senate.

ANDREW JACKSON.

"Pa, I know what piece of music that is which the band is playing—I do." "Do you, though?—what is it?" "It's the same that sister plays on the *piano*; she calls it the *overturn of a load of whiskey*," (overture to Lodoiska.)—[Balt. Visiter.

A shopkeeper in Paris has posted on his window the following notice:—"The public are requested not to confound this shop with that of *another charlatan* who has established himself on the opposite side of the way."

THE ADVOCATE.

Thursday, May 1, 1834.

A DUN.

To such of our subscribers as have not paid for the last year, we must say that their payments have now become due. We have requested them repeatedly to give us the small amount of their subcription. Our own debts must be paid. Our Paper, Ink, Journeymen, &c. all claim *money*, and money must be had. From our subscribers it must come. The amount is small to them individually, but to us it is much in the aggregate. o those who have paid we return thanks, and to those who have not paid, we request that they will call mmediately and liquidate our claims.

Owing to the great length of the Presidents PROTEST, which we publish this week, we are compelled to omit a number of Editorial articles intended for this number.

APPOINTMENT BY THE GOVERNOR.

Benjamin Parke, Esq. to be Prothonotary of the Middle District of the Supreme Court, at Harrisburg. This district was formed by an act of the last legislature, and is composed of the city and county of Lancaster, and the counties of Dauphin, Berks, Schuylkill, York, Lebanon, Mifflin, Centre, Clearfield, Juniata, Huntingdon, Cumberland, Bedford, Franklin, Adams and Perry.

Stebbings Acquitted.

It will be recollected that George Stebbings, some months since was arrested and committed to the jail at this place, on the charge of the murder of Miss Evelina Cunningham, in 1825. On Friday, the 11th inst. the Grand Jury found a bill, and on Thursday last he was brought up for trial. Yesterday about 5 o'clock the Jury retired to their room, and after an absence of about two hours, returned with a verdict *Not Guilty*. It is with reluctance we express a sentiment calculated to do injury to the character of the acquitted, but when our own opinion is sustained by every individual we have met with, we think it not improper to state, that the evidence was such, as to leave on the minds of all who were present at the trial a very strong suspicion of his guilt.

The prisoner was this morning discharged from the custody of the Sheriff, and almost immediately thereafter arrested and committed on the charge of *stealing lumber*, and in all probability will be obliged to remain in the county jail until the sitting of the county court in October next. He has a wife and five or 6 children.—*Cecil Republican.*

UPS AND DOWNS.

I am an *up* and *down* fellow, as you know—full of life, and *up* to any thing. Last night, thinking of the misfortunes I had experienced, I began to reckon *up* and set *down* the vicissitudes of life. *Up* and *down* mean, in many cases, the same thing; and frequently, when you think a man *up*, he is, in fact, *down*. For instance, neighbor A. tells me he is *up* and about a little, but that he is quite *down* with a cold. A barrels *up* and salts *down* his beef and pork; he eats *up* a thing, and it goes *down*; I let *down* my bars, and put *up* my cattle; a man trips another *up*, or he trips him *down*; and so we go *up* and *down* continually. I have seen many a young lady that was called *up* to the fashions, set *down* for a dunce, and rightly; and many a one who was *up* till twelve in the evening, and *down* till ten in the morning, for fashion's sake. There are too many young fellows who, with haughty air, are "knocking *down* all opposition," so as to be called *up* to the life. "*Down* with your dust," says one, and heads *up*—that's your sort;" while another class sit *up* and keep housed *up* to read and obtain knowledge, so that they may settle *down* upon some foundation. When I see a young lady modest, and not, as she walks the streets, flirt and swing with her head *up* I set her *down* for something; but I see one *up* to all kinds of "monkey shines," as the saying is, creating a great deal of surf when she passes, I can't help saying to myself, "*down* with her house." About this time I am informed, many persons are failing in this vicinity; if persons are breaking *down* so, I am thinking business is breaking *up*. In fact, such is the world and human nature, that we can't tell who is *up* or *down*. A man will appear to be well *up* on the ladder of fortune, which he is, in fact, just about to tumble *down*; a pr etended friend will stand at your elbow to boast you *up*, as you think, when he is only there to pull you *down*; and one will praise you *up* where he thinks you will bear of it, and run you *down* where he thinks his interest is a little served by it. If you trade with some, they will, lawyer like, "stuff you *up*" that they are giving you a bargain, and, if possible, will shave you *down* to the last copper. And now, Messrs. Printers, as you have set yourselves *up* as monitors over the public, to put *down* every thing wrong, and to watch the morals of society, I shall give *up* the rest of this to you. I want to see good men held *up*, and bad men put *down*. I want to see honesty *up*, and villany *down*; and you must be right *up* and *down* in these things. I am coming *down* in a few days, to pay *up* for your paper, and mean to have it sent *up* to me until I come *down*.

A BANK OF THE U. S.

By the following article, copied from the National Intelligencer of Saturday last, it will be seen that a new project for a National Bank has been laid before Congress. The author of the project is a friend of the Administration, and has voted to sustain Gen. Jackson in relation to the removal of the deposites. Further than what is to be inferred from this, we have no means of judging of the degree of favor with which the proposition of Mr. Duncan may be received.

Har. Chron.

Mr. Duncan of Illinois, yesterday laid upon the table of the House of Rrpresentatives; an amendment which he intends to move to the bill lately reported by the Committee of Ways and Means, for regulating the deposites of the public money in the State Banks, when that bill shall come up. That amendment proposes that the Charter the present bank of the United States shall be continued for ten years from the 4th day of March 1836, provided that the United States shall surrender the whole of its stock, and the present Stockholders shall surrender half of the stock in the bank held by them respectively; the several States have the right to subscribe at par value, in proportion to their respective representation in the House of Representatives of the United States, for the twenty-one millions of dollars of stock to be surrendered, or the citizens thereof, in the event of any States' declining to subscribe and pay in the amount of the quoto on or before the 1st day of February, 1836. The amendment embraces several other new features; such as limiting the dividend on stock to seven per cent per annum; the surplus, after the accumulation of a contingent fund of three millions, to be paid over to the Treasury of the United States; prohibiting the issue of any notes of a denomination less than ten dollars; requiring a bonus of $300,000 per annum, to be appropriated to internal improvements, &c. &c.

EXTRACT FROM BULWER'S NEW WORK

The Pilgrims of the Rhine.

I hurried through the town (says Nymphalin) without noticing much food for adventure. I paused for a moment on a fat citizen's pillow and bade him dream of love. He woke in a fright, and ran down to see that his Cheeses were safe. I swept with a light wing over a politician's eyes' and straightway he dreampt of theatres and music. I caught an undertaker in his first nap, and I left him whirled into a waltz. For what would be sleep if it did not contrast life! Then I came to a solitary chamber, in which a girl, in her tenderest youth, knelt by the bed-side in prayer, and I saw that the death spirit had passed over her, and the blight was on the loaves of the rose. The room was still and hushed; the angel of Purity kept watch there. Her heart was full of love, and yet of holy thoughts, and I bade her dream of the long life denied to her—of a happy home—of the kisses of her young lover—of eternal faith, and unwaning tenderness. Let her at least enjoy in dreams what Fate has refused to Truth! and, passing from the room, I found her lover stretched in his cloak beside the door; for he reads with a feverish and desperate prophecy the doom that waits her; and so loves he the very air she breathes, the very ground she treads, that when she has left his sight, he creeps silently and unknown to her, to the nearest spot hallowed by her presence, anxious that while yet she is on earth, not an hour, not a moment should be wasted upon other thoughts than those that belong to her, and feeling a security, a fearful joy, in lessening the distance that *now* only momentarily divides them. And that love seemed to me not as the love of the common world, and I stayed my wings and looked upon it, as a thing that centuries might pass, and bring no parallel to, in its beauty and its melancholy truth!

But I kept away the sleep from the lover's eyes, for well I know that sleep was a tyrant, that shortened the brief time of waking tenderness for the living, yet spared him; and one sad, anxious thought of her was sweeter, in spite of its sorrow, than the brightest of fairy dreams. So I left him awake, and watching there thro' the long night, and felt that the children of earth have still something that unites them to the spirits of a finer race, so long as they retain amongst them the presence of real love! And oh! is there not a truth in our fictions of the Unseen World? Are there not yet bright lingerers of the forest and the stream! Do the moon and the soft stars look out on no delicate and winged forms bathing in their light! Are the fairies, and the invisible hosts, but the children of our dreams, and not their inspiration! Is all a delusion which speaks from the golden page! And is the world only given to harsh and anxious travellers, that walk to and fro in pursuit of no gentle shadows! Are the chasteners of the passions the sole spirits of the universe! No! while my remembrance treasures in its deepest cell, the image of one who is no more—one who was "not of the earth earthly"—one in whom love was the essence of thoughts divine—one whose shape & mould, whose heart and genius, would, had Poesy never before have dreamt it, have called forth the first notion of spirits resembling mortals, but not of them; no, Gertrude, while I remember you, the faith, the trust in brighter shapes and fairer natures than the world knows of, comes clinging to my heart; and still will I think that Fairies might have watched over your sleep, and Spirits have ministered to your dreams.

DELICACY OF THE FEMALE TOUCH.—There is a kind of magic to the female heart in the touch of silk, satins, and sarsnets—in the handling of lace, leno, and embroidery, which it is difficult for the other sex to imagine.

DEATH.—Death, to a good man, is but passing through a dark entry, out one little dusky room of his father's house into another that is fair and large, lightsome and glorious, and divinely entertaining. We see every day the unexpected death of our enemies and our friends. We see new graves opened for men older and younger than ourselves—for the cautious and the careless—the dissolute and temperate—for men who, like ourselves, were providing to enjoy or improve hours, now irreversibly cut off. We see all this, and yet, instead of living, let hours pass away in preparation to live. To neglect at any time preparation for death, is to sleep, on our post, at a siege; but to omit it in old age, is to sleep at an attack.

THE TURKISH LANGUAGE.—No people have pretended to so much precision in their language as the Turks. They have not only verbs active, passive, transitive, and reciprocal, but also verbs co-operative, verbs meditative, verbs frequentative, verbs negative, and verbs impossible; but they have what are called verbs of opinion and verbs of knowledge. The latter are used when the speaker means it to be understood that he speaks of his own certain sure knowledge, and is absolutely certain of what he asserts—the former when he advances it only as what he thinks likely, or believes upon the testimony of others.

PRICES CURRENT.

	Marietta	*Balt.*	*Phil.*
FLOUR (wheat)	$4,37½	5,50	5,25
RYE FLOUR	3,00	3,25	3,25
Corn	45	56	56
WHEAT	90	1,00	1,00
RYE	55	66	66
OATS	25	31	30
CLOVERSEED	2,75	3,25	3,50
WHISKEY	18	20	20
FLAXSEED	150	1,60	1,62
BUTTER	15	"	"
EGGS	8		"

PRICES OF LUMBER.

The following are the prices of the different kinds of Lumber for Sale in this borough, viz:

W. P. Panel Boards Pr. M.	$24,00
Do. do. First common " "	from 15,00 to 16,00
Do. do. Second com. " "	$10,00 to 11,00
Do. do. Cullings " "	$6,50 to 7,50
Plank one inch, same rate	" "
First common yellow pine	$20,00 to 24,00
Second common do do	from $12,00 to 15,00
Shingles 30 inch from	$5,00 to 9,00
do. 2 ft. from	$3,00 to 5,00
Scantling white Pine from	$10,00 to 12,00
Do. Hemlock, from	$7,00 to 9,00
Cherry boards from	$15,00 to 25,00
Chair Plank, good.	20,00
Locust posts finished, pr. 100	from $31 to 04,00
Do do rough " "	from $12 to 25,00
Hogshead Staves pr. m. "	from $20 to 25,00
Barrel do " "	from $7, to 10,00
Sawed pine and Hemlock Rails pr. 100 from	$7 to 8,00

NOTICE.

A STATED MEETING of the "Thespian Library Association" will be held on MONDAY evening, May 5, 1834, where all members are particularly requested to attend.

By order of the Managers,
ANDREW LEADER, *Secretary.*
Marietta, May 1, 1834.

Public Sale.

Will be sold by Public Vendue, on Saturday the 17th day of May, 1834, at the Public House of Benjamin Libhart, in the borough of Marietta. The following property viz:

A Two Story Brick House, and LOT OF GROUND,

with Frame back buildings, No. 63, situate on High Street and the corner of an alley, and adjoining property of William Child, Sr. in the borough of Marietta, the improvements are a never failing WELL OF WATER, near the Kitchen door, also a number of choice Fruit Trees, &c. formerly occupied as a Store, by Mr. Russel and now in the occupancy of Mrs. Maxwell.

Sale to commence at 2 o'clock in the afternoon of said day, when attendance will be given and terms made known by

JOHN W. JONES,
ABRAHAM BRENEMAN.
Marietta, April 24, 1834.

Removal.

P. J. GORNER

Respectfully informs the citizens of the Borough of Marietta and the public in general that he has removed his

Chair Manufactory

to the new building lately built by James Steele, in the Market Square, next door to J. J. Libhart's Eagle Hotel, where he has on hand a general assortment of finished

Windsor Chairs, Settees, &c.

all of which he will dispose of on reasonable terms for *cash.*

Marietta, April 17, 1834.

Dissolution of Partnership.

The partnership heretofore existing between ESTERLE and CAROTHERS, Clock and Watch makers, Marietta, was dissolved on the first day of January last, by mutual consent.—Those having claims against said firm are requested to present them to G. K. Carothers for payment, and those indebted will please make payment to him.

JOHN ESTERLE.
G. K. CAROTHERS.
Marietta, February 22, 1834.

The subscriber informs his friends and the public that he has removed to the house lately occupied by J. Graybill, Esq. where he will continue the business of

Watch and Clock Making,

in its various branches. An assortment of *JEWELRY, WATCHES AND TIME-PIECES* will be constantly kept on hand.

GEORGE K. CAROTHERS.
Marietta, April 17, 1834.

Notice

Is hereby given that the Town Council passed a resolution on the 5th of April, requiring the Ordinance of the 27th March, 1830, to establish a

MARKET

in the Borough of Marietta,

to be enforced. Therefore a Market will be held on Wednesday and Saturday of each week between the hours of 4 and 8 o'clock, A. M. commencing on Wednesday the 23d of April. The ordinance prohibits the sale or purchase of butter or any other article of marketing elsewhere than at the Market house, during said market hours, under a penalty or fine of from one to five dollars.

SAMUEL D. MILLER,
Chief Burgess.

A. N. CASSEL, Town Clerk.
Marietta, April 17, 1834.

NOTICE.

Wanted on loan for a term of years, by the Corporation of Marietta,

$700.

Proposals received by
S. D. MILLER, Chief Burgess.
Marietta, April 17, 1834.

PROPOSALS,

By Adam J. Glossbrenner, of York, Pa.

FOR PUBLISHING, BY SUBSCRIPTION,

A HISTORY OF YORK COUNTY,

From its erection to the present time.

By Wm. C. Carter & A. J. Glossbrenner.

The facts, composing the proposed work, are derived from the most authentic sources.—The late Mr. Carter devoted a number of years to the collection of facts pertaining to a history, of this county, and had brought his notes for that history up to the year 1824, when the work was left incomplete by his death. The subscriber recently succeeded in obtaining possession of those notes—has now reduced them to order—and has, at no small expenditure of time and labor, put himself in possession of such facts as will enable him to continue the history to the present time.

CONTENTS OF THE WORK.

A history of this section of the country, prior to the erection of the county of York, with interesting notices of the earliest settlers.

An account of the progressive improvement of the county.

A number of quaint documents with the early history of the town and county.

A typographical and historical sketch of the Boroughs of York, Hanover, &c.

A history of the most remarkable events connected with the history of the county, embracing atmospheric phenomena, floods of the Codorus, insurrection of the blacks in 1803, &c. &c. &c.

A notice of Congress, during its session in York, and the causes which induced its removal to this place.

A brief notice of the various churches in the county, their first erection, their pastors from time to time, &c.

A list of all the Sheriffs, Coroners, Commissioners, Treasurers, Congressmen, State Senators, Assembly, &c. of the county up to 1834.

A statement of votes for governor polled in this county, from the time of the contest between Mifflin and St. Clair, down to that between Wolf and Ritner.

Biographical notices of some of the most distinguished individuals who have resided in this county.

A list of all the newspapers and other periodicals ever published in this county, the time when they were established, and by whom.

Post offices in the county.

Census of the county at different periods.

In addition to the information to be given under the above heads, a variety of interesting facts will be introduced under the head "Miscellaneous."

The work will contain between 200 and 300 pages, will be printed on good paper, strongly bound, and delivered to subscribers at $1,50 per copy.

The Public's Obedient Servant,
A. J. GLOSSBRENNER.

York, Pa. April 9, 1834.

Receipts and Expenditures of the Borough of Marietta, from March 31st 1833, to March 31st, 1834, inclusive.

Amount of Duplicate of 1833	$731 57
Amount received for license of shows,	26 75
Amount received for stall rents,	4 50
Amount of fine,	4 50
Amount of rent for public ground and School House lot,	19 00
Amount received for Bank,	25 00
Amount rec'd for School House rent,	10 00
Amount rec'd for Stall rent for 1834,	15 31¼
Amount rec'd for do. do. for 1834,	5 25
Amount received of J. Stackhouse for Ludwicks pavement,	28 34
Amount received of Jacob Stahl for Public Ground rent, for 1834,	15 00
	$885 22¼

Paid McElroy for going to Harrisburg and conveying Burden's children to the Poor House,	6 25
Paid for printing,	7 50
Paid for taking Assessment,	20 00
Paid for hauling,	12 00
Paid for Stationary,	1 20
Paid to street Commissioners for repairing streets,	346 87½
Paid expenses of the Market house,	7 92½
Paid discount and part of principal in Bank,	146 50
Paid percentage to the Collector,	63 48
Paid High Constable salary,	18 75
Paid Clerks salary and clerking election,	31 00
Paid for removing nuisances,	1 62½
Paid for laying pavement,	9 99
Paid for repairs at Public Schoolhouse,	60
Paid S. D. Miller as Burgess, and other services,	24 75
Paid law suit expenses,	22 54
Paid bill due of former years,	58 08
Paid contingent expenses,	2 43¾
Uncollected tax of 1833,	61 20
Cash in the Treasury,	43 02
	$885 22¼

RECAPITULATION.

Borough of Marietta, Dr.

To the Farmers' Bank of Lancaster,	500 00
" a balance due James Wilson,	11 87
" a do. due Benjamin Garman,	10 50
" a do. due Jacob Sheidley,	4 41¼
" a do. due Lewis Leader,	12 97¾
" amount due David Rinehart,	8 57½
" do. due James Mehaffey,	6 44
" do. due Abraham Cassel,	2 83
" do. due James Glenn,	17 85
" a balance due John H. Goodman,	1 85
" a do due J. Spangler,	3 67½
	$580 98

Borough of Marietta, Cr.

By amount due by John Roberts in suit,	35 60½
" note due by Jacob Libhart, in suit,	15 59½
" outstanding taxes of 1833,	61 20
" cash in the Treasury,	43 02
" amount due by the Borough,	425 56
	$580 98

The foregoing account has been examined and approved of by the undersigned, a committee appointed by the Town Council of the Borough of Marietta, to audit and adjust the Borough accounts.

JAMES WILSON,
LEWIS LEADER.

Attest,
SAMUEL S. GROSH, T. C.

Marietta, April 17, 1834.

NOTICE.

Wanted on loan for a term of years, by the Corporation of Marietta,

$700.

Proposals received by
S. D. MILLER, Chief Burgess.
Marietta, April 17, 1834.

C. Inhofe.

Respectfully informs his friends and the public generally that he has removed directly opposite to his former stand and a few doors below John Clements tavern, where in addition to his former stock he has received a fresh supply of

Groceries, Liquors, and Confectionary,

with various other articles in his line all of which will be sold low for cash.

Marietta, April 10, 1834.

Pine Wood

For SALE at CHIQUES SAW MILL, price 50 cents per half Cord.

January 11, 1833.

GREENBANK'S

Periodical Library.

Containing, in the cheapest possible form, a republication of new and standard works:—*Voyages, Travels, History, Biography, Select Memoirs, Popular Science, Personal Adventures, Tales of unexceptionable moral bearing and approved Poems.* It is published weekly, in numbers of 48 octavo pages each, at $5 per annum in advance, and contains matter equal to 208 pages more than any other Periodical in America at the same price. The following works have been already republished in the "Library," viz:

VOLUME I.—1. The Life and Trials of Henry Pestalozzi, with copious extracts from his works, illustrative of his plan of education; by E. Biber, Ph. Dr. 2. History of Peter the Great, with a preliminary sketch of the History and Statistics of Russia; by General Count Philip de Segur. 3. Notes of a journey thro' France and Italy; by William Hazlitt. 4. The last Essays of Elia; by Charles Lamb. 5. The Wounded Spirit, a Tale of Life; by D. M. Moir. 6. The life of Carl Theodor Kœrner, the German Warrior Poet; by his father. 7. Martial and Miscellaneous Poems of Kœrner. 8. Kœrner's Prose Tales. 9. Tours in Upper India and the Himalaya Mountains, &c.; by Major Archer. 10. The Game of Life; by Leitch Ritchie. 11. The Young Poet, a Fragment of Autobiography; from Tales of Field and Flood; by J. Malcolm. 12. Helen Waters, from the same. 13. The Brothers, from the same. 14. The Rival; by the author of Recollections of the Peninsula. 15. Anecdotes of Painters.

VOLUME II.—1. Critical Sketches of the character and genius of Scott and Byron. 2. Journal of an officer employed in the expedition under the command of Captain Owen, on the Western Coast of Africa. 3. Notes of a Tour in Albania. 4. Biographical and critical sketches of Sir James Mackintosh and Lord Brougham. 5. Service afloat, comprising the Personal Narrative of a British Naval Officer. 6. Oceanides or Marine Lyrics; by Mrs. Fletcher, (late Miss Jewsbury.) 7. Sketch of the genius and character of Wordsworth with selections from his Lyrical Ballads. 8. Nine Months' residence in New Zealand. 9. The Life of Mahomet; from the Library of useful knowledge. 10. History of the Ottoman or Turkish Empire by Edward Upham, Esq. M. R. A. S. 11. The Tyroler, by the author of Recollections of the Peninsula. 12. Domestic Manners in the West Indies; by Mrs. Carmichael, five years a resident in the Islands. 13. The Life and Character of William Wilberforce. 14. Men and Things, viz: The Times we Live in, Odd Fellows, and Blessings of Biography.

The London Editions of the above works were originally published in more than *thirty volumes*, cost the publishers about EIGHTY DOLLARS, and have been offered to subscribers at the amazingly reduced price of Two Dollars and Fifty cents! exclusive of postage.

The *Periodical Library* will consist of Four Volumes in the course of the year; each volume to make upwards of six hundred and twenty pages.

The first number with which the subscription begins, was published on the 10th May, from which time complete sets can be furnished. Address, post paid,

T. K. GREENBANK, & Co.
No. 9, Franklin Place, Philadelphia.

Office of the Susquehanna Bridge and Bank Company,

BALTIMORE, February 23d, 1833.

THE President and directors of this Company have adopted the following rates of interest to be allowed on Deposites of money at this Office, viz:—

On Deposites payable *Ninety* days after demand.	5 pr. cent per annum
On Deposites payable *Thirty* days after demand,	4 per ct. per annum
On current Deposites, subject to be checked for at the pleasure of the Deposites, ☞ to such persons as may request it.	3 per cent per annum
On weekly Deposites, which may be withdrawn on the first day of January or first day of July in each year, at which periods the Interest on said Deposites will be payable.	5 per cent

Certificates are issued for all *special* Deposites.

Collections are made on most of the principal towns, where Banks are located, in the several states.

Discount days *Wednesdays* and *Saturdays*.

On Saturdays the Office is open for business until 5 o'clock in the afternoon. By order,

W. E. COALE, CASHIER.

March 14, 1833.

Job Printing

EXECUTED AT THIS OFFICE.

LIST OF LETTERS

Remaining in the Post Office at Marietta, Lancaster county Pa. April 1, 1834.

A
Atherton B. Stephen, Albright Henry.
B
Briteman John, Bender David, Betrone Geo. Beam Martin.
C
Clark L. Uriah, Collins Michael.
D
Deplay John.
F
Fausnought Elizabeth, Fengerd Andrew.
G
Gamber John, 2, Gilman Mary, Gorl Henry.
H
Harkins Dennis, Hiestand Jacob, 2, Hantz Andrew, 2, Hutton Rebecca, Hyple Sarah, Heisler Charles, Haines Henry.
J
Jacobs Jonathan, Johnson Marian,
K
Kelley John, Keushter John.
L
Lecture Wm., Lattin Esther, Lewis Abel.
M
McMulta Cormick, Myers John, McEllroy Samuel, Mumma John.
P
Philip Jno., Pennington B. Jno.
R
Rice Wm., Ream Jno., Ream Geo.
S
Shenberger Henry, Sharper Rachel, 2, Shuler Geo. Sherer Christ, Smith Izrael, Sands Wm., Sowders Sam.
W
Winchell Abraham, Waldman Joseph.

JACOB GLATZ, P. M.

Marietta, April 3, 1834.

List of Letters

Remaining in the Post Office at Maytown, Lancaster county Pa., April 1, 1834.

John Kugle, Christian Grove, 2, Catharine Sultzbaugh, Samuel Hackenberger, John Smith, Mr. Johnston, John Hanes, Conrod Sigler, John M. Whitehill, Michael Brenneman, John S. Brenneman, Hetty Lynch, John Rumbough, 2, Andrew Hershey, Christian Leichty, Samuel Tomlinson, Henry Eagle, Jacob Like, Isaac Strohue, William Brown, Joseph Leager, Jacob Kulp, Mary Wilson, Elizabeth Maize, Mary Poist.

GEORGE FERREE, P. M.

Maytown, April 3, 1834.

The People's Magazine.

The first volume of the PEOPLE'S MAGAZINE, which is just completed, was commenced as an experiment. The unqualified approbation it has every where received, and the large list of subscribers it has already obtained, induce the Publishers to continue their efforts to make the work what they intended from the first—a permanent *family magazine*,—one, too, which shall be still more worthy of the high character it sustains. In pursuance of this determination, they will withhold no pains or expense. They have already secured such aid in the editorial department, as they deem necessary to the accomplishment of their purpose.

The great object of the *People's Magazine*, then, is to convey *useful instruction*, in plain and familiar, but chaste language, and in the *cheapest possible form*, to every cottage and fireside in the land. There are few families, to be found, who cannot afford to spend one dollar a year, for a visiter, twice a month, which shall give them valuable information and advice, on subject connected with their usefulness and happiness—which, while it shall not fail to *interest* and *amuse*, shall have still higher and nobler purposes in view—the improvement of the *mind*, and the cultivation of the *heart*.

Natural History will continue to receive, as it deserves, a considerable share of our attention. This science embraces many more topics than at first view might be supposed. Whatever relates to the character, nature, or internal structure, of *men*, *animals*, and *things*, is properly a subject of natural history.

But we shall not confine ourselves wholly to the animal, the vegetable and the mineral kingdoms of *nature*. We shall launch out, often, into *history*, *arts*, *manufactures*, &c. The pages of history are full of instruction. *Biography* will also be deemed an appropriate subject. In short, nothing which is calculated to benefit the minds and hearts of our readers, will be intentionally excluded.

We do not expect, in a semi-monthly magazine, to present all the important intelligence of the day, but only such as may be deemed of permanent value, as a matter of record. Even this will sometimes appear late. But delay has its advantages. Much mischief has been done, and many unnecessary pangs inflicted, by an unjudicious eagerness to circulate early intelligence. Every one will recollect instances, where the public press has in this way widely circulated false statements. These evils the People's Magazine will endeavor to avoid.

Engravings of a superior character will continue to be furnished; but while we labor, in this way, to render the work attractive, we intend much more. We believe the good engravings may be made to do something more than to amuse, or even illustrate. We believe they may be made to cultivate the mind, chasten the imagination, develope taste, and benefit the heart. Shall the teachers of vice find engravings an important aid in accomplishing—unworthy ends in vitiating the taste and imagination—and shall the teachers of virtue neglect to turn them to a good account, in the *promotion of human happiness?*

TERMS.—*Published every other Saturday, at* ONE DOLLAR *a year*, in advance. Six copies for five dollars.

The postage of this Magazine is three quarters of a cent for 100 miles, and one cent and a quarter only for the greatest distance. By special decision of the Post-master General.

LILLY, WAIT, & CO.,
Publishers, 121, *Washington St.* Boston.

Subscriptions received at this office.

ASHBEL GREEN, JR.
ATTORNEY AT LAW,
COLUMBIA, PA.

OFFICE at the corner of Locust and Second Streets, next to the Printing Office.

A. G. Jr. will attend at Marietta on every Thursday, for the transaction of business, and may be found at Libhart's Hotel.

LUMBER Yard.

In the Eastern part of Marietta.

J. GROSH.

GRATEFUL for past favors, informs his old customers, and a generous public, that he still continues to keep on hand and at his old stand, LUMBER of every description, among which are.

White and Yellow Pine Boards,

and Plank, 30 and 24 inch Shingles, Joists, Rafters and Scantling from 10 to 40 feet long and from 3 by 4 to 7 by 8 inches thick.

Hewed Timber,

of several lengths and sizes. Ready made and rough Locust Post, Pine and Hemlock Rails, Hogshead and Barrel Staves.

Also STONE COAL, of the best quality by the ton. All of which he is determined to sell low for CASH, or approved short credits.

Marietta, July 18, 1833.

Lumber YARD.

THE SUBSCRIBER respectfully informs his friends and the public generally, that he has in addition to his former stock of lumber a large assortment of long timber, Joist, Scantling, and Rafters; Timber from 10 to 50 feet in length, Joist from 10 to 22 feet, scantling from 10 to 24 feet, Rafters from 10 to 27 feet, all of which he offers for sale at the current prices—between two and three hundred thousand Shingles at a reduced price.

JAMES MEHAFFEY.

Marietta, Jan. 31, 1833.

A. M. Beatty,

AUCTIONEER and VENDUE CRIER.

Respectfully informs the people generally, both in Town and Country, that he continues to attend to the above business and may be found by inquiring of *Samuel McKinney* in Front Street Marietta.

References as to capacity enquire of
WILLIAM CHILD,
SAMUEL HOPKINS.
JOHN H. GOODMAN,

October 12, 1833,

COFFEE HOUSE HOTEL.

No. 38, SOUTH STREET, BALTIMORE.

THE SUBSCRIBER thankful for the encouragement that he has received, from his friends and the public since he commenced the above establishment, respectfully informs them that he still continues at the same place, and hopes by his attention to the comforts of his Guests to merit a share of their patronage.

JOHN S. BAKER.

March 7, 1833.

New and Splendid Assortment of FALL & WINTER GOODS

Just Received at the Store of Forster & Law

Consisting in part of

Cloths, Cassimeres,

fashionable SATINETTS, CASHMERE & TIBAT SHAWLS, and a great variety of Goods suitable for the present and approaching season, which are offered uncomonly low for CASH or COUNTRY PRODUCE, by the subscribers,

FORSTER & LAW.

Marietta October 24, 1833.

INSURANCE AGAINST FIRE!

HOUSES, BARNS, GOODS, LUMBER YARDS, and other property insured, on application at the agency office of the Franklin Fire Insurance company of Philadelphia next door below the office of the Columbia Spy.

Columbia, May 11th, 1833.

GOODS

selling off at first cost for cash.

The subscribers having determined to close their business in this place as soon as possible, would call the attention of the public to their EXTENSIVE assortment of MERCHANDIZE which they are now offering for sale at first cost. C. HERTZLER & WILSON.

Marietta Sept. 5th, 1833.

Notice.

ALL persons in any way indebted to the subscribers are hereby respectfully notified to come forward and discharge their respective accounts immediately, or abide with the consequences. ALSO persons having claims against the firm are requested to present them for settlement.

HERTZLER & WILSON.

Sept. 5. 1833.

Dissolution of Partnership.

The co-partnership in the Hatting business, heretofore conducted under the firm of "BARR and CASSEL," of Marietta, is this day dissolved by mutual consent. Those having claims against the firm are requested to present their accounts for payment to A. N. Cassel, and all those indebted to the firm are required to make payment to said Cassel, who is authorized to receive all outstanding debts due the firm.

JOHN BARR,
A. N. CASSEL.

Marietta, January 4th, 1834.

A. N. CASSEL,

Respectfully informs his friends and the public that he has taken, and will continue the Hatting establishment heretofore conducted under the firm of Barr and Cassel.

January 4, 1834.

HARDWARE, Drugs, Paints, Oils and DYE STUFFS.

The subscriber still continues to keep, as has on hand a good supply of

DRUGS, PAINTS, OILS, GLASS, DYE STUFFS, AND SHOP FURNITURE, which he offers on the best terms to those who will favor him with their custom.—Also, a general supply of

PATENT MEDICINES, GROUND SPICES Mahogony Venires,

Swaim's Celebrated Panacea,

for the cure of Scrofula or King's Evil, Mercurial diseases, Rheumatism and all disorders arising from a bad state of the blood; this medicine has been recommended by the best Physicians of Philadelphia. All orders will be thankfully received and particular pains taken that no accidents or mistakes may occur. A liberal discount will be allowed to Physicians and wholesale dealers.

J. T. ANDERSON,

Marietta, Jan. 23, 1834.

Valuable Property For Sale.

The Subscriber offers at Private Sale, the large and commodious

Brick Dwelling House,

AND LOT OF GROUND,

in the Borough of Marietta, now occupied by him as a Store and dwelling house. The property is situated on the South East corner of Market Square, very advantageous for doing public business, the Lot is under the best improvement, being supplied with a well of never failing water, a good cistern at the back door, good stabling, and all kinds of fall and summer fruit. Also, an adjoining

House and Lot of Ground,

in the Market Square.

Persons wishing to view the above described property, are requested to call on

JAMES STEEL.

Marietta, Feb. 6th, 1834.

LIBHART'S HOTEL and Stage Office,

Corner of Gay & Front Streets, Marietta.

THE Subscriber returns his thanks to a generous public for the favors he has hitherto received, and respectfully announces to his customers and others, that he still continues to occupy that well known stand—the house has lately undergone considerable repairs, improvements and alterations, so as to render it more completely a home for the traveller.

The house is spacious and contains twenty four rooms, two of which are private Parlors, and fitted up in good style for the accommodation of private parties. The above establishment enjoys one of the most advantageous situations in the place, being located in the centre of business, and commands a fine prospect of the river and its scenery.

The subscriber intends devoting his unremitted personal exertions in conducting the above establishment, and hopes by this assiduity and attention to merit that patronage so liberally extended to him heretofore, and for which he hereby makes his most grateful acknowledgements.

B. LIBHART.

Feb. 7, 1833.

James Noble,

Auctioneer and Vendue Crier

Offers his services to the people both in TOWN AND COUNTRY, and would be thankful for a share of public patronage.

References as to capability, enquire of
BENJAMIN LIBHART,
RIEB & LIBHART,
DAVID WALKER.

Marietta November 30, 1833.

MARIETTA English & Classical Academy.

This Institution, under the supervision of Theodore W. Simpson, A. M. will be opened for the admission of PUPILS, in the building lately erected at the corner of Gay and Walnut streets, on TUESDAY, December *Third*. The Male department will be under the immediate direction and government of the Principal. The Female department, will be conducted by Miss C. SIMPSON, who has had considerable experience in teaching. The various branches of a

Classical & English Education

will be taught. The following list comprises a part of the regular course of instruction, viz:

Orthography, Reading, Writing, Arithmetic, Geography, Grammar, Use of the Globes, Mental and Moral Philosophy, higher branches of Mathematics, Greek and Latin Classics, French, Music, Drawing &c.

The pupils will be divided into classes, acocrding to the attainments of each. Exercises in COMPOSITION and DECLAMATION, will be required of all of suitable age and acquirements.

Terms of tuition will vary from three to six Dollars, according to the nature of the studies.

Drawing, French, Music, and Fancy work extra.

Miss SUTHERLAND, who has had four years experience as an *Instructress* of Music, having taught at Baltimore and Bethlehem with much satisfaction to her employers, will give lessons on the Piano and Guitar.

Drawing and Fancy work, per quarter	$5,00
Fancy work	2,00
Erench	6,00
Music on the Piano or Guitar	8,00

Stationary furnished, if desired, at a moderate rate.

The Principal will receive a few female boarders into his family, at the low rate of $25 per quarter, for board, tuition, &c. Board can be had in respectable familes from $1,75cts to $2,00 per week.

Application for Admission, can be made either to Mr. Simpson or any one of the following Trustees,

James Mehaffey, Dr. Samuel Huston, Rev. O. Douglass, Christian Hertzler, James Wilson.

Marietta November 30, 1833.